



STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION OF COMPUTER)
NETWORK TECHNOLOGY CORPORATION)
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE)
AND INTEREXCHANGE TELECOMMUNICATIONS)
SERVICES THROUGHOUT THE STATE OF NEW)
JERSEY)

ORDER

DOCKET NO. TE03090740

(SERVICE LIST ATTACHED)

BY THE BOARD:

Pursuant to N.J.S.A. 48:2-1 et seq. and Section 253 of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and by letter dated February 26, 2004 Computer Network Technology Corporation ("Petitioner" or "CNTC") filed a Petition with the Board of Public Utilities ("Board") requesting authority to provide local exchange and interexchange telecommunications services throughout the State of New Jersey.

CNTC was incorporated under the laws of the State of Minnesota on July 11, 1979. Petitioner's principal offices are located at 6000 Nathan Lane, Minneapolis, MN 55442.

Petitioner submitted copies of its Articles of Incorporation, Minnesota Certificate of Good Standing and its New Jersey Certificate of Authority to operate as a Foreign Corporation. According to the Petition, CNTC seeks authority to provide all forms of facilities-based and resold local exchange and intra-state interexchange telecommunications services. Petitioner also seeks statewide authority so that it may expand its service areas as market conditions warrant. Petitioner intends to provide large corporations with managed critical network data storage, management and disaster recovery products and services. Petitioner states that in tailoring these products and services to their customers, Petitioner is required to assist in the design and implementation of data communications networks that allow for the transmission of customer data between various customer locations and CNTC locations worldwide. Petitioner also states that it has significant technical experience in the design, ordering and management of data communications services and facilities. Petitioner is seeking jurisdictions in all 50 states including the District of Columbia.

Petitioner further states that it has been approved to do business in Colorado, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Montana, Nebraska, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, Texas, Vermont, Washington, Washington DC, Wisconsin and Wyoming. Petitioner further states that it has not been denied authority in any jurisdiction, and is not subject to any criminal or regulatory proceedings in any jurisdiction. According to the Petition, Petitioner seeks authority to provide resold and facilities based non-switched local exchange and intrastate interexchange services. Specifically, Petitioner will seek to serve its existing customer base with high quality, competitive telecommunications services, specializing in the provision of dedicated, private line data communications circuits to business customers. Petitioner further states that its senior management team has built CNTC into a high revenue, publicly traded company with over \$400 million in annual revenue. Petitioner also states that it is financially qualified to operate as a resale and facilities based provider of non-switched local exchange and interexchange data telecommunications systems.

According to the Petition, Petitioner is a well funded, publicly traded provider of data network storage and management products and services to Global 2000 enterprises throughout the world. Petitioner states that it does not maintain an office within the State of New Jersey at this time. Petitioner's services and business are managed from its Minneapolis office. Customers may contact CNTC's toll free number, 1-800-752-8061. Petitioner's registered agent's office is National Registered Agents, Inc. of NJ 51 Everett Drive, Suite 107b, P.O. Box 927, West Windsor, NJ 08550.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8, N.J.A.C. 14:1-4.3 and 14:10 -1.16, which require that books and records be kept within the State of New Jersey and be maintained in accordance with the Uniform System of Accounts ("USOA"), respectively. In the interest of efficiency and to prevent undue burden, Petitioner requests permission to maintain its books and records in accordance with Generally Accepted Accounting Principles and to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in Minneapolis, Minnesota. Petitioner states, upon written notice from the Board, it will provide its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records.

Petitioner asserts that its certification will provide customers with an additional source of supply for critical data communications services, and will provide the competitive marketplace for these services with a well funded competitor that will offer innovative services and pricing as well as exceptional service and support. Petitioner states that approval will serve the public's interest.

Petitioner states that as evident from the information contained in Exhibit C, it possesses the managerial skills and technical expertise necessary to execute its business plan and to provide the proposed telecommunications services. Petitioner further states that members of the Petitioner's senior management team possess years of experience in network technology companies.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical, and managerial integrity.

In considering this Petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). The Board also considers the New Jersey State Legislature's declaration that it is the policy of the State to "provide diversity in the supply of telecommunications services" and the Legislature's findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed CNTC's Petition and the information supplied in support thereof, the Board FINDS that the Petitioner is in compliance with the Board's filing requirements to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES the Petitioner to provide local exchange telecommunications services throughout New Jersey subject to approval of its tariff and submission of pro forma financials for its New Jersey operations. The Board also FINDS that in accordance with N.J.S.A. 48:2-59 and 48:2-60, and N.J.S.A. 52:27E-61 and 52:27E-62, the Petitioner is subject to an annual assessment by both the Board and the Division of the Ratepayer Advocate, respectively. The Board notes that the Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board and the required financial statements have been provided.

The Board HEREBY ORDERS that:

- 1) Petitioner file its tariff for Board approval.
- 2) Pursuant to N.J.S.A. 48:2-16.3, Petitioner shall file an annual report as of December 31 of each year, which is due on or before March 31 of the following year.
- 3) Pursuant to N.J.S.A. 48:2-59 and 48:2-60, Petitioner shall file a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before June 1 the following year.

On or before February 1st of each year, the Petitioner will receive from the Division of Audits an annual report package and a statement of gross intrastate revenues from operations form for the preceding calendar year. The purpose of these documents is to report the company's financial information and gross intrastate revenues from operations as of December 31 of each year. The annual report and statement of gross intrastate revenues from operations form are due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive these documents, it is Petitioner's responsibility to obtain them from the Board. It is also the Petitioner's responsibility to ensure timely filing of these reports.

Regarding the Petitioner's request for waivers of the Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements

that the Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES the Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

DATED: 4/28/04

BOARD OF PUBLIC UTILITIES
BY:

(SIGNED)

JEANNE M. FOX
PRESIDENT

(SIGNED)

FREDERICK F. BUTLER
COMMISSIONER

(SIGNED)

CAROL J. MURPHY
COMMISSIONER

(SIGNED)

CONNIE O. HUGHES
COMMISSIONER

(SIGNED)

JACK ALTER
COMMISSIONER

ATTEST:

(SIGNED)

KRISTI IZZO
SECRETARY

IN THE MATTER OF THE PETITION FOR AN ORDER AUTHORIZING
COMPUTER NETWORK TECHNOLOGY CORPORATION TO PROVIDE LOCAL
EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES
THROUGHOUT THE STATE OF NEW JERSEY

DOCKET NO. TE03090740

SERVICE LIST

Serial No.	<u>Name and Address</u>	Serial No.	<u>Name and Address</u>
1	Petitioner's Contact Person: Thomas Hudson, President & CEO Computer Network Technology Corp., 6000 Nathan Lane Minneapolis, MN 55442	4	Board's Staff: Walter Szymanski, Director Division of Audits Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
2	Petitioner's Attorney: Richard P. De Angelis , Esq. STRYKER, TAMS & DILL, LLP Two Penn Plaza East Newark, New Jersey 07105	5	Board's Staff: Anthony Centrella, Director Division of Telecommunications Board of Public Utilities Two Gateway Center Newark, New Jersey 07102
3	Ratepayer Advocate: Seema M. Singh, Esq. Acting Director and Ratepayer Advocate Division of Ratepayer Advocate 31 Clinton Street, 11 th Floor P.O. Box 46005 Newark, New Jersey 07101	6	Deputy Attorney General: Alex Moreau Department of Law & Public Safety Division of Law 124 Halsey Street, 5 th floor P.O. Box 45029 Newark, New Jersey 07102